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ABSTRACT

This paper states that college radio invokes two ends of a language spectrum -- the clean language authorized for on-air use and the dirty language prohibited from such use, and that the interaction between the two produces "expositional obscenity," a catalytic form of discourse that invites the audience to render a judgment about questionably obscene material. Obscenity is an ambiguous realm of language that the Supreme Court has judged to fall outside the safety of protected speech covered by the first amendment. In the current climate of deregulation and the benchmark of community standards, potentially obscene material has emerged as a common form of radio programming. College radio is a significant contributor to the acceptance of obscene programming by conventional radio broadcasters. In the process of airing expositional obscenity, college broadcasters initiate the public's acceptance of questionable material and ultimately broaden the scope of conventional radio discourse. The process is a healthy one for the college students, conventional broadcasters, and the spirit of free expression. Four notes are included. Contains 10 references. (Author/RS)

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# "The Role of Obscenity in College Radio"

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## Abstract

"The Role of Obscenity in College Radio"

Obscenity is an ambiguous realm of language that the Supreme court has judged to fall outside the safety of protected speech covered by the 1st Amendment. Congress has empowered the FCC, through the Code of Federal Regulations, to prohibit broadcasters from playing obscene material on the air. Yet in the current climate of FCC deregulation and the benchmark of community standards, potentially obscene material has emerged as a common form of radio programming. College radio is a significant contributor to the acceptance of obscene programming by conventional radio broadcasters. In the process of airing expositional obscenity, college broadcasters initiate the public's acceptance of questionable material and ultimately broaden the scope of conventional radio discourse. The process is a healthy one for college students, conventional broadcasters, and the spirit of free expression.

"The Role of Obscenity in College Radio"[1]

Obscenity is a relative term. It means--in a very loose kind of way--any behavior (including language) that some group of people finds to be extremely offensive. Obviously, the definition is problematic because some people think the expression "fuck you" is offensive, while others think the expression "abortion kills" is offensive. The constitution of the United States was amended to guarantee the free exchange of potentially clashing ideas as "protected speech," but the Supreme Court has ruled that obscenity is a realm of public discourse that falls outside the boundaries of protected speech (U.S. v. Roth, 237 F.2d 796, 1956).

Broadcast media are not free from such restrictions either, as the Federal Communications Commission has been empowered by Congress to revoke a radio or television station's license for operation as a result of an obscene broadcast (Code of Federal Regulations: Section 1464, Title 18). Despite this provision, however, material that some would consider to be obscene has been regularly aired by broadcast media, and no radio or tv station to date has been denied renewal of its license for broadcasting obscene material (Pember, 1984).

This paper is an examination of obscenity in college radio. My thesis is that college radio uniquely interacts two ends of a

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[1]This article was first presented at the Freedom of Expression Division of the 1993 Speech Communication Association convention in Miami, Florida.

language spectrum to produce a catalytic form of discourse I call "expositional obscenity." I argue that expositional obscenity in college radio invites the audience to render a judgement about questionably obscene material. After the judgement is rendered, it is adapted to by conventional radio and television stations. Three factors contribute to my thesis: (1) certain laws and guidelines that regulate the use of obscene speech in broadcast media, (2) obscenity in college radio, and (3) the progressive role of obscene college radio in expanding the boundaries of conventional broadcast discourse.

Federal Laws and Guidelines

Three legislative acts are responsible for the way the federal government regulates speech in broadcast media today. All three acts have been set up under a philosophical outlook in the United States that generally views radio and tv stations as guardians of the public's welfare; the philosophical outlook is the so-called "public trusteeship" model of broadcasting (Sterling and Head, 1990). A critical assumption of the model is that broadcast media should serve the public's interest because irresponsible media programming can cause mental or physical harm to the audience.

The Radio Act of 1927 put the public trusteeship model into law by specifying that radio stations should serve the public's "interest, convenience and necessity." To interpret this broad guideline, the Act brought regulation of broadcasting under the

control of the federal government. As part of the Act, the Commerce department was given the power to license all radio stations in the country; and stations that did not demonstrate that they would serve the public's interest, convenience and necessity would not be licensed.

Obscene language during this time period was virtually non-existent in radio programming for two related reasons: (1) if a station broadcast obscenities it might not get its license renewed; and (2) the predominant source of funding for radio was advertising by single-sponsor programs unwilling to have their products associated with "dirty" programming. Neither of these reasons had very much with actual needs of the audience.

The Radio Act was modified by a second piece of legislation, the Communications Act of 1934, which formed the Federal Communications Commission (FCC). This new streamlined federal agency was now authorized to oversee the licensing and regulation of all telecommunications media, which included radio, the telephone, the telegraph, and, for a new technology at that time, television. The far-reaching Communications Act put into law the specific procedures by which radio and tv stations should serve the public's interest, convenience and necessity. The procedures covered technical configurations for radio and tv stations, public input in a station's licensing process, and even categories of content a station must broadcast.

As a result of the Communications Act, public input became such an integral part of the FCC's licensing process that

stations could actually be prevented from abandoning an unprofitable format if there was no similar format around and the community argued strongly enough for retaining the format. Other regulations were just as prescriptive. For example, advertising was limited to 8 minutes per half hour, news and public affairs were stipulated to be at least 10% of a station's overall programming, and station identifications were required at the top of the hour.

In the era of the Communications Act, obscenity on the radio gradually began to emerge as a controversial issue. The emergence of obscenity on radio came about as the industry moved from single-sponsor programming to multiple commercial advertisers, a situation that created an atmosphere of competition for product recognition within single radio and tv programs. In other words, back-to-back commercials loosened the monopolistic control that sponsors previously had over creative programming, and words like "damn" and "hell" began to be heard on the air as natural expressions of deejays seeking to entertain their audiences.

Broadcasting continued to test and expand the boundaries of obscenity until the Supreme Court upheld a case in 1978 that prohibited the airplay of specific words. In Pacifica vs. FCC, the Court ruled that George Carlin's "seven bad words you can't say on tv," were not permissible on the air; other potentially obscene words of more ambiguous meaning like "ass" continued to be heard on the air. In other words, the court ruled that not

all speech in broadcasting was "protected speech." Furthermore, a violation of this ruling would constitute grounds for the FCC to fine a station or deny renewal of its license[2]. Thus for the first time, broadcast language was cast outside of the rights provided to individuals by the 1st Amendment.

However, in the 1980s the FCC under the direction of then-Chairman Norman Fowler took a decidedly different view of obscenity by deregulating the procedure for determining whether a word is obscene. The deregulative approach to broadcasting was to let the audience--defined as a marketplace--decide what was to be considered obscene programming (Fowler and Brenner, 1982). If the marketplace voiced enough of a concern over potentially offensive programming, and documented the alleged obscenity with either transcripts or tape, the FCC would step in with a fine. As a guideline for determining the validity of a public complaint, the FCC defined obscenity as "language that describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs" (Donnerstein, Wilson and Linz, 1992, p. 111).

Thus, by shifting the burden of determining what is obscene from the FCC to the public, deregulation became the third major legislative activity to affect the issue of obscenity in broadcast media. The effect of deregulation should not be

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[2]They are: shit, piss, fuck, motherfucker, cocksucker, asshole and tits.

underestimated since it put into motion a fundamental shift in philosophy about the role of broadcasting; namely, it change the role of broadcasters as trustees of the public good to broadcasters as commercial distributors of products responding to consumer needs of the audience. And while the FCC still retains the right to fine broadcasters on a case-by-case basis for obscene programming, deregulated broadcasters today are actively exploring programming in a way that challenges the FCC's traditional view of obscenity.

Unfortunately, broadcasters cannot really be sure what the boundaries of obscenity are until a fine has been received from the FCC, so deregulation has created a climate of legal uncertainty (Broadcasting, March 9, 1992). While Carlin's "seven bad words" are still generally viewed by the FCC and broadcasters alike as off limits, a flurry of new expressions on the air is presenting murkier territory. Words that have emerged today as tests of the obscenity boundaries include: penis, butthead, ass, boobs, and nipples.

During the transitory period of deregulation, TV shows like "Married with Children" and "NYPD blue" have challenged the boundaries of obscenity with visual images, but certainly radio has been the more daring broadcaster. Most people know of the fines levied by the FCC against the Infinity Broadcasting company for obscene scenarios described on its Howard Stern show, but many regional and local radio stations have also been fined in recent times for obscene broadcasts (Broadcasting, February 22,

1992; Broadcasting, March 2, 1992). One station, WLUP, was fined for the obviously tasteless deejay joke asking: "What do you do after you eat a bald pussy? Refasten the diaper."

Leaving aside the sickness of the joke as well as a discussion about whether it promotes or creates social deviancies, the joke nonetheless shows the risk broadcasters are willing to take today to entertain or shock the audience. Although WLUP was fined, the fact that lawyers for the Howard Stern show have challenged their FCC fines in court, and that no fines have been paid as of yet, illustrates how cloudy the issue of obscenity in broadcast media has become. More important, the Stern-FCC standoff reveals a peculiar quandary in conceptualizing what on-air material can be proven as obscene; Carlin's words are obscene because they are discreet symbols, but Stern's scenarios may not be obscene because they are audience imagined.

Obscenity in College Radio

Nowhere in the broadcast media is the climate of obscenity more malleable than in college radio, which provides a unique combination of elements where its deejays invoke two ends of the obscene language spectrum to explore new forms of obscenity. The combination of elements unique to college radio are: (1) youthful deejays experimenting with entertaining language; (2) youthful deejays also aspiring to be responsible broadcasters; and (3) youthful deejays broadcasting to a youthful audience that often includes not only college students but also high school

students. Together, these elements have effectively excused obscenity on college radio from the kind of scrutiny applied by the FCC to commercial radio, but the same time have elevated the issue of "indecency" on college radio to more active FCC regulation. In fact, the FCC recently fined six college stations for indecent broadcasts, and began investigations into six others for indecency violations (Broadcasting, March 2, 1992).

Indecency is a sub area of obscenity, and is defined mostly by age. According to the FCC, indecency is "any offensive language that might be heard by children and teenagers between 12 and 17" Washington Journalism Review, November, 1990, p. 21). Such an inherently hard-to-define area of regulation is particularly relevant in the college radio environment because high school listeners can be exposed to an amateur deejay "slipping up" in the quest to be humorous on the air. Luckily for college broadcasters, the FCC response has generally been to forgive college radio broadcasters for obscene language as long as it occurs during the designated "safe harbor" time frame (from 9pm to 6am daily), when children supposedly are in bed and not listening to the radio. However, the burden of proving "no harm done" has been placed on the shoulders of college-station administrators, who must argue that the obscenity uttered on the air was an accident of a learning deejay who otherwise was certified for on-air broadcasting in a responsible training program.

Thus, college radio is a unique environment where the ideal

of protecting society's teens from potentially offensive on-air language is juxtaposed with the ideal of allowing college deejays to experiment with commentary in the spirit of free expression. That environment creates a role for obscenity in college radio where a discourse I am calling "expositional obscenity" emerges from the organizational interaction of two ends of a language spectrum that conventional broadcast communication does not normally engage. At one end is the clean language authorized for on-air use. At the other end is the dirty language prohibited from on-air use. Somewhere in the middle falls the expositional obscenity of college radio.

I define expositional obscenity as an experimental form of potentially obscene language offered for public consideration by a broadcast medium at a particular moment in time. Expositional obscenity, then, is the first test of whether or not a broadcast word is to be considered by the marketplace and then officially by the FCC as obscene; the language in question can involve the use of a new word such as "muff" or the new use of an older word such as "butthead." However, expositional obscenity is but a finite stage of a much longer process of public acceptance of new words and expressions; for after the expositional stage, another stage begins where the word or phrase in question is either picked up by more conventional forms of media--like the top 40 radio station--or regulated off the air by the FCC as an adjudication of listener complaints.

Two scenarios in a college radio organization lead to the

formation of expositional obscenity. I will describe these scenarios by drawing examples from the college radio stations at which I have served as deejay and/or faculty advisor.[3] The first scenario is the discourse printed in the official station manual typically used to indoctrinate new deejays into the organization. For example:

> Any member found to be broadcasting vulgarities will be suspended or expelled, depending on the severity of the offense. Vulgarities include, but are not limited to, "shit, piss, fuck, cunt, motherfucker, cocksucker, bitch, asshole, bastard, son-of-a-bitch and goddamnit." Vulgarities also include medical terms such as "penis" and "rectum" used in a non-medical context.[4]

A second scenario is the off-air chit chat of deejays confronted abruptly with opening up microphone and saying something. To fully appreciate the skill needed for such a situation, one must consider the necessity to keep completely separate, at a moment's notice, the two extremes of the obscenity language spectrum when a song suddenly ends and a moment of dead air calls for some deejay talk. Sometimes the predicament creates humorous moments. Once I heard a deejay say, in an angry way exactly 10 seconds before opening the microphone at the end of a song, "I had to wait 45 fucking minutes for the band to come on stage." Then, suddenly when the microphone was opened, the

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[3]I currently serve as University Advisor to WESS radio at East Stroudsburg University (1375 watt output, Diversified format, faculty advised, funded through student fees). Previously I served as Faculty Advisor to KSSB radio at the California State University, San Bernardino. In addition, I have been a deejay for WIXQ radio at Millersville University and WPSU radio at the Pennsylvania State University.

[4]Quoted from the Station Manual of WESS (90.3 FM).

deejay announced a calm and clean version of the event: "You just heard the Cure on 90.3 WESS, who took a lonnnnnggggggg 45 minutes to get their act together last night." That example is common for youthful deejays aware of the two interacting, but separate, planes of language: "the clean" and "the dirty."

The two scenarios of obscenity in college radio I have just described--the station manual with its printed permanence and the graphic off-air chit chat with its potentially spontaneous termination--expose college deejays consistently and abruptly to the realm of the obscene. Thus, college deejays are highly aware of the seven bad words because of their ongoing anxiety that one of these words might slip out over the air if they do not pay careful enough attention to their own speech, the speech of their guests, or the lyrics of a song.

However, despite the graphic depiction of obscene words in the station manual and during off-air conversation, many words and phrases of a potentially obscene nature are spoken on college radio shows. That is because the dirty end and the clean end of the language spectrum interact in an environment where the deejays are learning yet adventurous, while the FCC is forgiving yet watchful.

The result of this interaction is expositional obscenity, the on-air leaks of potentially bad words from creative deejays anxiously seeking to shock the audience without actually using the explicit seven words. Let's take a hypothetical but very real example: As a song is finishing, two deejays open up the

microphone to talk on the air. One says "Hey, what's goin' on with Ted Danson and Whoopie Goldberg?" The other one replies "Yeah, are they boffing?" The first one remarks, "Well, he does have a mighty big helmut when he's not wearing his toupee."

This remark introduces a common feature of expositional obscenity: questionable dialogue that engages the audience in a rhetorical way. That is to say, on-air dialogue that invites the audience to be witty enough about the implied meaning of the ambiguous words and to render a judgement about whether the language is too obscene. In the previous example, the audience is invited to judge whether "boffing" is too graphic and to figure out that "helmut" is a double entendre for penis. This exchange also illustrates that the genre of expository obscenity invites the audience to be an active participant in the meaning of the remark. Put another way: In order to figure out what the deejays are talking about, the audience must vividly imagine what the expression means in light of its context. The rhetorical nature of this process is similar to that posed by the enthymeme, where the audience fills in the missing premise to arrive at the conclusion themselves.

Such a deejay exchange would probably be ignored by the FCC unless a substantial number of listeners complaints are filed with the proper documentation. And while this is certainly possible, the FCC would still be likely to excuse the exchange if apologies are offered and the deejays are disciplined internally.

The Role of College Radio in Broadening Broadcast Language

In the meantime, however, words like "boffing" begin to gain permanence also in the mainstream language of commercial broadcast media after their repeated usage in the college radio environment. In so doing, the words or phrases of questionable obscenity move beyond the stage of exposition to the stage of general usage by the media. Such was the case for a song called "Detachable Penis," broken by college radio and later aired on commercial radio only after it was seen to be a "safe" song. Such is also the case for a song called "Asshole," an apparently obvious violation of the tabooed "seven bad words" that has not yet resulted in fines. Both songs attained their legitimacy on college radio before they were adopted by commercial radio.

Therefore, commercial broadcasters take on potentially obscene language that has often been tested first in the college radio environment. This parasitic relationship makes college radio a unique force in the evolving definition of obscene expressions. It is a force that does at times produce tasteless humor; but it is a force that on balance produces for college deejays a healthier understanding of the meaning of obscenity than either textbooks or public discussion would produce. In essence, college deejays get to witness the full process of a public conclusion that certain words are offensive in light of a sustained public reaction. Moreover, the process is played out for college deejays in much less of an ambiguous fashion than for professional broadcaster, where the potentially offensive words

are not even aired until they are safe.

In closing, I believe that college radio deejays have a very real understanding of obscenity issues because they expose the new language forms to their audiences and experience firsthand whether or not the audience is offended by their remarks. Moreover, because the ambiguous nature of the expositional obscenity in question engages the mental imagery of audience, the public reaction to the language is truer to FCC-actualized definition of obscenity--an expression that some group of people finds to be extremely offensive. Therefore, college radio performs a decidedly productive role in establishing the boundaries of acceptable broadcasting expressions, and in exposing its practitioners directly to the process by which symbols become obscene.

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